Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
	)	
Innovation in the Broadcast Television Bands:	)	ET Docket No. 10-235
Allocations, Channel Sharing and	)	
Improvements to VHF	)	
	)	

To: The Commission, Office of the Secretary

COMMENTS OF ZGS COMMUNICATIONS, INC.

ZGS Communications, Inc. ("ZGS") hereby submits its comments in response to the FCC's Notice of Proposed Rulemaking ("NPRM") in the above referenced rule making proceeding.[1] ZGS is a Hispanic-owned media company committed to serving its communities and to remaining a local broadcaster. ZGS has a unique perspective and a vested interest in the continued strength and success of the broadcasting industry, and offers its comments as the Commission considers these issues.

By its NPRM, the Commission seeks to take preliminary steps to change its rules in order to facilitate the reclamation of broadcast television spectrum, consistent with the proposal outlined in the National Broadband Plan (the "NBP"). While Congress has not given the FCC the authority to conduct incentive auctions as proposed by the NBP, the Commission, by this rule making, proposes to move forward with certain rule changes in anticipation of future authority for such auctions. Accordingly, the NPRM seeks input on three discrete issues: First, whether to revise the spectrum table of allocations to allow for new usage of the broadcast television spectrum; second, changes to

[1] *In the Matter of Innovation in the Broadcast Television Bands: Allocations, Channel Sharing, and Improvements to VHF*, Notice of Proposed Rule Making, FCC 10-196, 25 FCC Rcd 16498 (rel. Nov. 30, 2010) (hereinafter "*NPRM*").

its rules to allow television stations to share a single six-megahertz channel; and third, ways to improve reception and utility in the VHF bands.

As the Commission takes these initial steps towards the possible reclamation, repacking, and reallocation of a portion of the television spectrum for use by new wireless providers, it is important that the Commission carefully consider the impact that these changes will have on existing broadcast television stations and the essential service that these stations, both full power and low power, provide to communities across the country. As detailed further below, ZGS urges the Commission to include Class A television stations, low power television ("LPTV") stations, and TV translator stations in whatever rules it may establish affecting these bands, both in this particular rule making proceeding and in any future rule makings it may conduct. Such stations are a critical part of the broadcast landscape. Class A and LPTV stations provide essential local service equal to, if not greater than, that offered by full power stations. Moreover, Class A and LPTV stations often serve minority audiences with limited access to other sources of news, entertainment, and emergency information. Accordingly, these stations must be included in the Commission's plans for the television spectrum and allowed to participate on an equal footing with full power stations.

BACKGROUND

ZGS Communications, Inc., formerly known as ZGS Broadcasting, is a radio and television station group owner and operator that is 100% minority owned by founders Ronald Gordon and Eduardo Zavala. ZGS television stations are Telemundo network affiliates, and all ZGS stations broadcast Spanish-language programming.

ZGS owns and operates 14 Spanish-language television stations, representing the largest group of independent Telemundo affiliate stations in the country. Of the ZGS television stations, two are full power stations, KTDO(TV), Las Cruces, New Mexico (serving the El Paso, Texas market), and WWSI(TV), Atlantic City, New Jersey (serving the Philadelphia, Pennsylvania market); eight are

Class A stations WZDC-CA, Washington, D.C., WRDM-CA, Hartford, Connecticut, WRIW-CA, Providence, Rhode Island, WRMD-CA, Tampa, Florida, WTMO-CA, Orlando, Florida, WMVJ-CA, Melbourne, Florida, WKME-CA, Kissimmee, Florida, and WWDT-CA, Ft. Myers-Naples, Florida; three are low power stations, WDMR-LP, Springfield, Massachusetts; WTMU-LP, Boston, Massachusetts; and WZTD-LP, Richmond, Virginia; and a translator station K48IK in El Paso, Texas. Additionally, ZGS operates three full power stations pursuant to Local Marketing Agreements, WNEU(TV), Merrimack, New Hampshire; KNSO(TV) Fresno, California; and KVDA(TV), San Antonio, Texas. ZGS also owns three AM radio stations, two in the Tampa-St. Petersburg market and one in the Washington, DC market.

ZGS was founded in the early 1980s as a television production company specializing in creating programs and advertising for Hispanic consumers, and grew into a marketing and advertising agency. From that beginning, ZGS started to acquire low power television stations in several markets (Tampa, Boston, Hartford, Springfield, Orlando, and Washington, DC were early acquisitions) and began developing the broadcasting side of the business. The principals used their production skills to bring a full service "look" to these stations and their programming, including locally originated Spanish-language newscasts, public affairs programming, and local variety shows all on a modest budget. ZGS also began its long affiliate relationship with Telemundo and has served to fill a void in these markets for high quality, local Spanish-language programming.

In this decade, with its broad base of low power and Class A stations in place and, of great importance, providing cash flow able to support bank financing, ZGS has been able to acquire additional low power or Class A stations in Fort Myers-Naples, Raleigh, Richmond, and Orlando, and two full-power television stations in the El Paso, Texas, and Philadelphia, Pennsylvania television markets, respectively.

ZGS therefore stands as one of the most successful examples of how minority-owned television broadcast businesses offering diverse programming for specific underserved audiences can be built by acquisition of Class A television stations, with such stations in turn providing the financial platform and cash flow for further expansion with credit facilities, including the ownership of full power stations, as ZGS has done. This example underscores the vital importance of lower cost Class A television stations as potential building blocks for such businesses that rely on traditional advertising revenues.

From its inception, ZGS has not just been about business, but more importantly about service to the Hispanic community; first in its television programs, marketing and advertising, and then using the unparalleled power of television and radio broadcasting to reach an audience, in particular with Spanish-language news and public affairs and community based programming that informs that audience, provides a valuable tool for organizing and publicizing community events, and serves as an important local resource. ZGS stations are often the first and best source of Spanish-language information in the event of a local natural disaster or emergency especially in areas of lower cable penetration. For example, the Florida stations conduct a comprehensive hurricane awareness and preparedness campaign that includes on-air vignettes and news packages, community events, and online resources, as well as printed informational materials distributed across the markets.

As a local broadcaster, ZGS has become integral to the communities that it serves. ZGS has created very successful Spanish-language local newscasts on its stations in Washington, DC, Orlando, Florida, and El Paso, Texas, which include both evening and late edition newscasts. Beyond local news, ZGS stations in all markets also produce and broadcast community oriented public affairs programming, and they provide culturally relevant programming for particular segments of the Hispanic community, for example, programs originating in Puerto Rico, El Salvador, or the Dominican Republic that is attuned to these communities.

From its experience as a broadcaster, ZGS has come to appreciate and to utilize the value of its programming to organize and publicize community events, and to provide educational, cultural, and social support to the Hispanic population in its markets. ZGS takes its responsibility to serve the community very seriously and has created several signature grass roots events and programs that are designed to empower and inform audiences. ZGS's trademark event held in numerous markets is a free community fair for Hispanic families known as "*La Feria de la Familia*" (Family Fair). At these events, there is entertainment, as well as important information available about housing and home ownership, medical and child care, and educational, financial, and employment opportunities. Last year alone, nearly 100,000 people and over 400 organizations participated in these events in 7 markets. In 2011 La Feria will be held in 8 markets. ZGS stations also participate in "*Tu Voto Tu Voz*" (Your Vote, Your Voice), a local voter education, registration, and turnout campaign that emphasizes local political races and ballot initiatives and encourages greater civic participation amongst the Hispanic community. Additionally, ZGS itself offers "*La Buena Vida*" (the Good Life), a comprehensive health, wellness and lifestyle outreach campaign, and "*Leer Para Vencer*" (Read to Succeed), a campaign that promotes reading in the Hispanic family. ZGS's newest local initiative "*Linea de Ayuda*" is a helpline that provides viewers with expert information and resources on specific topics relevant to the community including the U.S. Census, paying for college, preparing tax information, legal advice, weathering the mortgage crisis, and social issues including domestic violence, among others. These above mentioned efforts are only a few of the ZGS Group initiatives. Individual stations also develop their own local partnerships and social campaigns to serve their communities.

As a result of its programming efforts and its ongoing community outreach efforts, ZGS maintains a close and continuing involvement with its communities. Additionally, ZGS's employees, now over 200 in all, are in most cases from the respective station's community themselves and therefore reflect and understand its interests, values, and needs. Overall, 90% of ZGS employees are minority group members, and 92% of its management staff is drawn from minorities. ZGS is therefore a primary source of training and development for entry level minority staff who go on to be media professionals, with ZGS or elsewhere.

With such a proven record of community service, ZGS can state without hyperbole that it does not engage in local news, public affairs programming, and community service events to fulfill a regulatory obligation, but because the very purpose of ZGS and its stations is to inform and serve the Hispanic community. Owning and operating television and radio stations is the essential means to that end. Moreover, such activities and community-responsive programming are necessary to create a viable product in a competitive media landscape. ZGS therefore not only exemplifies a path to minority ownership of broadcast stations, but its success and focus on community service also demonstrates the benefits that flow to a community when minority owners use the power of broadcasting to serve these communities – the very purpose of the Commission's public interest, localism, and diversity policies.

Despite its patient path to success as a television group owner, and its aspiration to create even more local initiatives in all of its markets, ZGS faces financial constraints common not only to minority-owned broadcasters but to many other smaller broadcasting companies that are advertising based competing with the largest group owners, and with other media, lately including web based services. In particular, because Class A stations are not entitled to cable or satellite carriage, ZGS has had to attempt to negotiate for carriage on cable and satellite systems as best it can, and in many cases without success, in an effort to access the vast majority of its audience. Given the importance of Class A and LPTV television stations both to the public and to small, local businesses, it is critical that the FCC not leave these stations behind, nor treat them any differently as it reshapes the rules governing the broadcast television spectrum. Allowing these stations to compete on a level playing field will only benefit the industry and the public.

DISCUSSION

By its NPRM, the FCC seeks comment on, among other things, "the development of an appropriate regulatory structure for voluntary television channel sharing that will preserve over-the-air television as a healthy, viable medium going forward, in a way that would benefit consumers overall, while establishing mechanisms to make available additional spectrum for flexible broadband uses."[2] This goal necessarily includes Class A and LPTV stations, which occupy critical television channels in the congested UHF television spectrum, and which are an essential part of free over-the-air television service in the United States.

Despite the importance of this category of broadcast television stations, however, the Commission's NPRM hardly mentions Class A, LPTV, or TV translator stations. It is only in the context of its channel sharing proposal that the Commission raises the question of Class A, LPTV and TV translator stations, stating:

> We are considering allowing LPTV, Class A, and translator stations to operate on shared channels, both among themselves and with full power stations. If we do permit low-power stations to operate on shared channels, we are also proposing to provide that currently qualified low-power stations retain their eligibility for must carry rights, but to create no new rights. We seek comment on these proposals. Are there other issues we should consider with regard to allowing low power stations to channel share?[3]

ZGS emphatically supports including Class A, LPTV, and TV translator stations in whatever rules the Commission establishes as a result of this or future rule making proceedings affecting the television spectrum bands.

With respect to this specific proposal that stations be allowed to share six-megahertz channels, ZGS submits that Class A, LPTV, and TV translator stations should be afforded the same

[2] NPRM at ¶ 18.
[3] NPRM at ¶ 40.

opportunity to share channels, either among themselves or with full power stations, offered to full power stations should the FCC decide to adopt such channel sharing rules. It is important to note that the ability to broadcast in HD is increasingly essential to the ZGS business model as it enhances programming and provides additional traction in the market, including opportunities for cable and satellite carriage that may not otherwise be accessible to Class A or LPTVs. ZGS is committed to providing its audience with increased options and has begun investing in HD facility upgrades. As such, it is concerned that six-megahertz may not be enough bandwidth for two stations to broadcast HD feeds.

If the Commission is to reach its goal of clearing a meaningful amount of spectrum in the television bands while simultaneously preserving a vibrant free over-the-air television market, it is essential that Class A, LPTV, and TV translator stations be included in the analysis and allowed to participate on an equal footing with full power stations. In the congested markets where the Commission is most concerned about clearing spectrum for future broadband usage, Class A, LPTV, and TV translator stations occupy a significant number of channels in the UHF band. Providing these stations the same incentive and ability to channel share, relocate, or surrender their authorizations will be important to ensuring that sufficient bandwidth is cleared in these markets. Moreover, as detailed throughout these comments, operators such as ZGS, compete with full power stations and provide service to the community commensurate with full power stations. Accordingly, ensuring that low power broadcasters are treated equally is not only fair, but essential to preserving a viable free, over-the-air broadcast television industry.

The Commission touts channel sharing, relocation, band clearing, and incentive auctions as a way to potentially strengthen the over-the-air broadcast industry by providing broadcasters access to capital in exchange for modifying their current operations. This access to capital, the Commission argues, will allow existing broadcasters to potentially reinvest in their industry, either through other commonly owned stations, improved programming, or advanced technology. These Commission arguments are equally applicable to the owners of Class A, LPTV, and TV translator stations, many of whom are minority owned or small businesses, who have invested heavily in their stations, their communities, and their industry to provide service to the public consistent with the Commission's Rules.

As a minority-owned media company that holds licenses for fourteen full-power, Class A, and low power television stations in markets around the country, ZGS can attest to the fact that Class A television stations and LPTV stations are an excellent means for small businesses and minority owners to enter the ranks of broadcast licensees. Because their acquisition, capital and operating costs are substantially less than full power television stations, these stations are often within the financial reach of local minority and small business owners when full power stations are not. Regardless of whether they are afforded primary status commensurate with full power stations, as Class A stations are, or secondary status, as LPTV and TV translators are, these stations provide essential local service on par with that of full power stations, and are often indistinguishable from full power stations to the audiences that they serve. It is therefore essential that the Commission not treat these stations any differently from full power television stations as it commences this proceeding to explore the reclamation and reallocation of the television spectrum. To separate either Class A television stations or LPTV and TV translator stations from the future rules applicable to full power stations in this spectrum would be inequitable and harmful to both the licensees of these stations and the audiences that they serve.

In establishing its rules governing the transition of broadcast television to a digital transmission standard, the Commission decided to focus on full-power stations first, with Class A, LPTV, and TV translators to transition at a later date. That approach has resulted in significant discord between full and low power stations, and in a delay in Class A and LPTV stations making the switch to digital. While there may have been logistical challenges in the DTV transition that made it difficult for LPTVs to be considered at the same time as full power stations, ZGS urges the Commission to avoid that issue as it approaches possible changes to the television spectrum this time around. Class A, LPTV, and TV translator stations are integral to the fabric of free, local, over-the-air television service, and need to be included in this process and not addressed as an afterthought.

CONCLUSION

The Class A and low power television services epitomize the Commission's goals of diversity, localism, and competition. As an entry point for smaller broadcasters, particularly minorities, small businesses, and niche programmers, Class A and LPTV stations collectively provide some of the most diverse and local programming of any broadcast stations. As the Commission explores ways to revise its rules and repurpose spectrum from the television bands for new wireless broadband uses, it must not forget or ignore Class A, low power, and TV translator stations. Therefore, ZGS recommends that the Commission include stations in these services as part of whatever rules it ultimately adopts in this proceeding, including the ability to channel-share posited by this NPRM.

Respectfully Submitted,

ZGS COMMUNICATIONS, INC.

____
Eduardo A. Zavala
President, Digital, Broadcast and News Operations

ZGS COMMUNICATIONS, INC.
2000 N. 14th Street, Suite 400
Arlington, VA 22201
(703) 528-5656 x.106

Dated: March 18, 2011